

CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
BOND FINANCING PROGRAM
Meeting Date: September 18, 2012
Request for Amendment to Initial Resolution

Prepared by: *Alejandro Ruiz*

<p>Applicant: Poseidon Resources (Channelside) LP and/or its Affiliates and San Diego County Water Authority</p>	<p>Amount Requested: \$780,000,000 Application No.: 849(SB) Initial Resolution No.: 11-06</p>
<p>Project Location: Carlsbad (San Diego County)</p>	<p>Prior Action: IR approved 10/25/11</p>

Summary. Poseidon Resources (Channelside) LP and/or its Affiliates (“Poseidon” or the “Company”) and San Diego County Water Authority (“SDCWA”) request approval of an amendment to Initial Resolution 11-06 for an amount not to exceed \$780,000,000 to finance the construction of a desalination plant and pipelines to supply water to the San Diego area.

The Initial Resolution was approved on October 25, 2011 for an amount not to exceed \$780,000,000 with Poseidon as the sole applicant.

Poseidon and SDCWA are requesting an amendment to the Initial Resolution to add SDCWA as a co-applicant and to identify the financing plan for the two portions of the project: (1) the desalination plant and (2) the associated delivery pipeline. The applicants anticipate issuing two series of bonds: (1) up to approximately \$550,000,000 in private activity bonds will be issued on behalf of Poseidon to finance the desalination plant and (2) up to approximately \$230,000,000 in governmental purpose bonds will be issued on behalf of SDCWA to finance the pipeline.

Borrowers. SDCWA was established in San Diego County on June 9, 1944. SDCWA is a public agency serving the San Diego region as wholesale supplier of water from the Colorado River and Northern California. The SDCWA provides a safe and reliable supply of water to its 24 member agencies serving the San Diego Region.

Since it is a public agency, the SDCWA does not have owners. A listing of the board members is attached as Attachment A.

Poseidon was formed in Delaware on April 15, 2003. The Company specializes in developing and financing water infrastructure projects, primarily seawater desalination.

The principal stockholders of the Company are as follows:

Poseidon Carlsbad LLC	99.9%
Poseidon Resources Channelside GP, Inc. (less than 1%)	<u>0.1%</u>
Total:	<u>100.0%</u>

The sole stockholder for Poseidon Resources Channelside GP, Inc is Poseidon Carlsbad, LLC.

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The owner of Poseidon Carlsbad LLC is Poseidon Water LLC. Poseidon Carlsbad LLC is a direct subsidiary of Poseidon Water LLC.

Below are investors in Poseidon Water LLC that have more than 3% voting rights:

Mandeville Desalination Ventures I LLC
Mandeville Desalination Ventures II LLC
Mandeville Desalination Ventures IV LLC
Sustainable Development Investments, L.P.
Nimes Capital, LLC

See Attachment B for Corporate Structure representation.

Legal Questionnaire. The Staff has reviewed the SDCWA's responses to the questions contained in the Legal Status portion of the Application. No information was disclosed in the Legal Status portion of the Application that raises questions concerning the financial viability or legal integrity of this applicant.

In the original Initial Resolution application, Poseidon responded affirmatively regarding its involvement in pending litigation. Six lawsuits were filed in California state courts against project approvals made by the California Coastal Commission, San Diego Regional Water Quality Control Board, California State Lands Commission and the City of Carlsbad in connection with the Project, one of which is on appeal and still remains pending.

The San Diego County Superior Court recently upheld the San Diego Regional Water Quality Control Board's May 13, 2009 approval of a mitigation plan for the project; however, project opponents filed an appeal of the court's decision with the California Fourth Appellate District, which remains pending. The pendency of this remaining lawsuit does not affect Poseidon's ability to continue construction and operate the project.

Considering the success against all other litigation, and that the litigation was resolved without interfering with the project, staff determined that the approval of the amended application should not be denied based on the remaining litigation. The original Initial Resolution application was approved by the Authority's Board on October 25, 2011 despite the ongoing litigation.

Project Description. The Carlsbad Desalination Project consists of constructing a reverse-osmosis seawater desalination plant with an average operating capacity of 50 million gallons per day (or alternatively 56,000 acre feet per year) and associated water delivery pipelines. The desalination plant will take raw sea water from the Encina Power Station cooling water system, produce potable drinking water for transmission to the regional water supply system, and discharge concentrated seawater back into the power plant cooling water discharge channel for dilution and discharge back into the ocean. The water delivery pipelines will be located underground through easements obtained with the California Department of Transportation and the Cities of Carlsbad, Vista, and San Marcos through the rights of the San Diego County Water Authority to access public rights of way and through a license agreement with the North County Transportation District to access its right of way. The pipelines will connect to the existing

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water delivery systems of the San Diego County Water Authority and supply water throughout San Diego County.

Volume Cap Allocation. Poseidon anticipates applying to the Authority for up to \$550,000,000 in volume cap allocation in October or November. The SDCWA will not require volume cap allocation for its governmental purpose bonds.

Financing Details. The Borrowers anticipate the issuance of tax-exempt private activity bonds for Poseidon and tax-exempt governmental purpose bonds for SDCWA.

Financing Team.

Underwriter: Barclays Capital
Bond Counsel: Orrick, Herrington & Sutcliffe
Financial Advisor: Montague DeRose and Associates
Issuer's Counsel: Office of the Attorney General

Staff Recommendation. Staff recommends approval of an amendment to Initial Resolution No. 11-06 for Poseidon Resources (Channelside) LP and/or its Affiliates and the San Diego County Water Authority for an amount not to exceed \$780,000,000.

Note: An Initial Resolution approval is not a commitment that the Board will approve a Final Resolution and bond financing of the proposed Project.

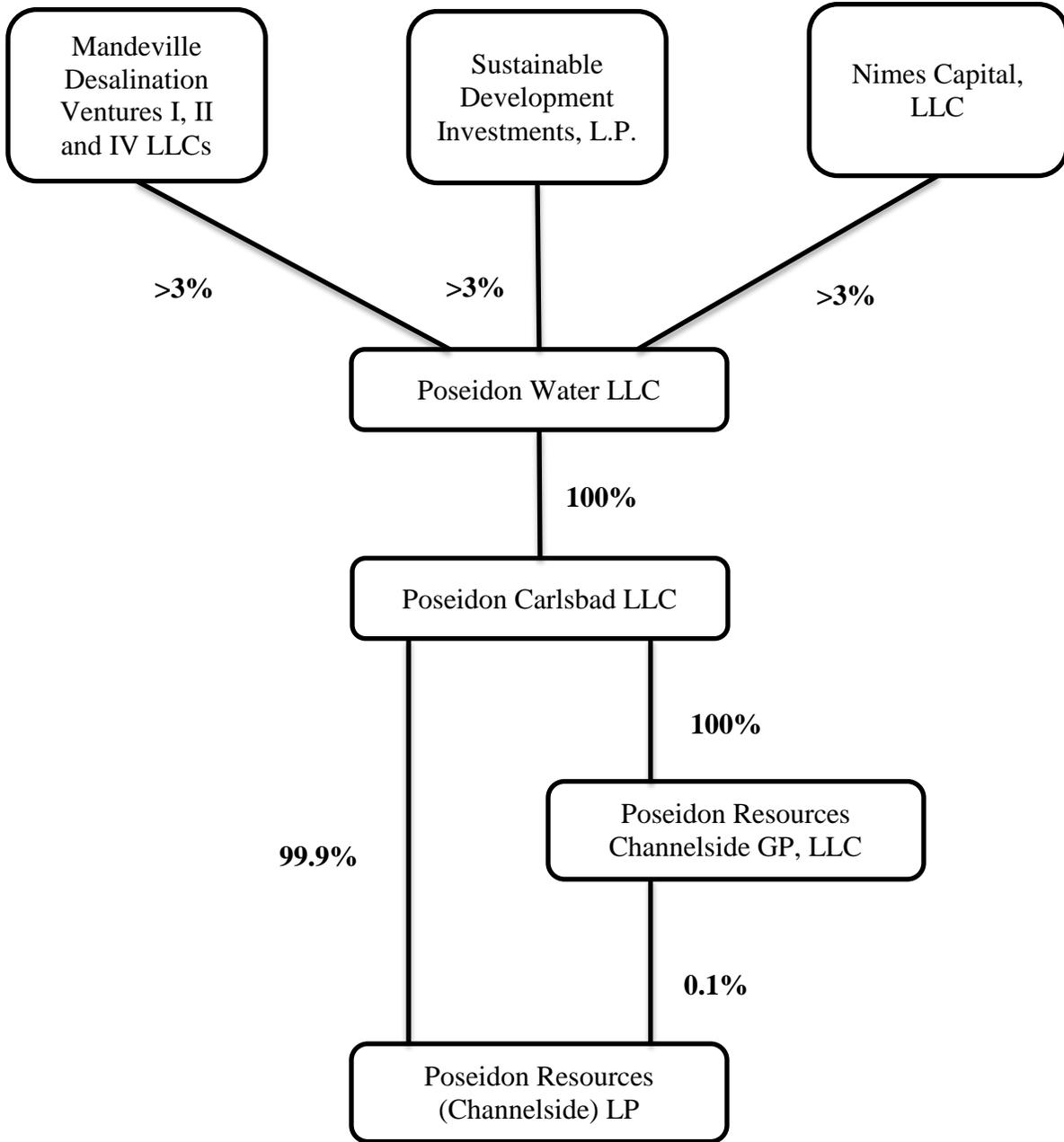
Attachment A

Board Members of the San Diego County Water Authority

Name	Officer/Partner/Member
Michael Hogan	Chair of SDCWA Board
Thomas Wornham	Vice Chair of SDCWA Board
Richard Smith	Secretary of SDCWA Board
Farrah Douglas	Board Member (Carlsbad)
Keith Lewinger	Board Member (Carlsbad)
Hershell Price	Board Member (Del Mar)
Marilyn Dailey	Board Member (Escondido)
Brian Brady	Board Member (Fallbrook)
John Linden	Board Member (Helix)
Richard Smith	Board Member (Helix)
Frank Hilliker	Board Member (Lakeside)
Ron Morrison	Board Member (National City)
Brian Boyle	Board Member (Oceanside)
Bob Topolovac	Board Member (Olivenhain)
Gary Croucher	Board Member (Otay)
Mark Watton	Board Member (Otay)
Doug Wilson	Board Member (Padre Dam)
Mark Weston	Board Member (Poway)
Dennis Sanford	Board Member (Rainbow)
David Barnum	Board Member (Ramona)
Mitchell Dion	Board Member (Rincon del Diablo)
Roger Bailey	Board Member (San Diego)
Lynne Heidel	Board Member (San Diego)
Vincent Mudd	Board Member (San Diego)
Javier Saunders	Board Member (San Diego)
Elsa Saxod	Board Member (San Diego)
Fern Steiner	Board Member (San Diego)
Yen C. Tu	Board Member (San Diego)
Barbara Wight	Board Member (San Diego)
Kenneth Williams	Board Member (San Diego)
Thomas Wornham	Board Member (San Diego)
Jim Bond	Board Member (San Dieguito)
Michael Hogan	Board Member (Santa Fe)
Bud Pocklington	Board Member (South Bay)
Dennis Lamb	Board Member (Vallecitos)
Gary Arant	Board Member (Valley Center)
Marty Miller	Board Member (Vista)
W.D. Knutson	Board Member (Yuima)

Attachment B

Corporate Structure Above Poseidon Resources (Channelside) LP



**RESOLUTION OF OFFICIAL INTENT TO ISSUE BONDS TO
FINANCE WATER FURNISHING FACILITIES FOR
SAN DIEGO COUNTY WATER AUTHORITY AND/OR ITS AFFILIATES AND
AMENDMENT OF RESOLUTION OF OFFICIAL INTENT TO ISSUE BONDS TO
FINANCE WATER FURNISHING FACILITIES FOR
POSEIDON RESOURCES (CHANNELSIDE) LP AND/OR ITS AFFILIATES**

September 18, 2012

WHEREAS, the California Pollution Control Financing Authority (“Authority”), a public instrumentality, is authorized and empowered by the provisions of the California Pollution Control Financing Authority Act (“Act”) to issue bonds for the purpose of defraying the cost of facilities for the furnishing of water; and

WHEREAS, Poseidon Resources (Channelside) LP, a limited partnership duly organized and existing under the laws of the State of Delaware and/or its affiliates (collectively, the “Company”) has submitted an application (the “Company Application”) requesting that the Authority assist in financing the acquisition, construction and installation of facilities for the production, treatment and distribution of water in the County of San Diego, including the construction of a reverse-osmosis seawater desalination plant, distribution facilities, including water delivery pipelines and equipment functionally related thereto as described more particularly in the Company Application (collectively, the “Project”); and

WHEREAS, at the request of the Company the Authority adopted its Initial Resolution No. 11-06 on October 25, 2011 (the “Company Initial Resolution”) in the amount of not to exceed \$780,000,000 to assist in financing the Project; and

WHEREAS, San Diego County Water Authority, a county water authority duly organized and existing under and by virtue of the laws of the State of California (the “Water Authority”), at the request of the Company, has submitted an application (the “Water Authority Application”) requesting that (1) the Authority assist in financing a portion of the Project to be owned and operated by the Water Authority, and have presented an estimate of the maximum cost of such Project as shown in Exhibit “A” attached hereto, and (2) in connection therewith, the Authority authorize the amendments set forth herein; and

WHEREAS, the Authority desires to encourage the Water Authority to provide water supply facilities and equipment which will serve the public of the State; and

WHEREAS, the Authority deems it necessary and advisable to further the purposes of the Act that the Project be acquired at the earliest practicable date, but the Water Authority requires satisfactory assurances from the Authority that the proceeds of the sale of bonds of the Authority will be made available to finance such Project; and

WHEREAS, the Water Authority expects to incur or pay from its own funds certain expenditures in connection with the Project prior to the issuance of indebtedness for the purpose of financing costs associated with the Project on a long-term basis; and

WHEREAS, the Water Authority has submitted the Water Authority Application as an amendment in part to the Company Application to the Authority and has requested the Authority to amend the Company Initial Resolution as set forth in Section 7 below;

WHEREAS, subject to meeting all the conditions set forth in this resolution the Authority reasonably expects that debt obligations in an amount not expected to exceed \$780,000,000 will be issued and that certain of the proceeds of such debt obligations will be used to reimburse the Water Authority for its prior expenditures for the Project; and

WHEREAS, Section 1.103-8(a)(5) and Section 1.150-2 of the Treasury Regulations require the Authority to declare its reasonable official intent to reimburse prior expenditures for the Project with proceeds of a subsequent borrowing;

NOW, THEREFORE, BE IT RESOLVED by the California Pollution Control Financing Authority as follows:

Section 1. The Authority finds and determines that the foregoing recitals are true and correct. For purposes of this Resolution, an “Affiliate” of the Water Authority means any person or entity which controls, is controlled by, or is under common control with, the Water Authority, as shown by the possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, whether through majority equity ownership, contract or otherwise. An Affiliate shall also be a “participating party” as defined in the Act.

Section 2. The Authority declares its official intent to issue, at one time or from time to time, an aggregate of up to \$780,000,000 principal amount of bonds of the Authority for the Project; including for the purpose of reimbursing to the Water Authority costs incurred for the Project prior to the issuance of the bonds.

Section 3. The bonds will be payable solely from the revenues to be received by the Authority pursuant to an installment purchase contract or other agreements to be entered into between the Authority and the Water Authority in connection with the Project. Each bond shall contain a statement to the following effect:

“Neither the faith and credit nor the taxing power of the State of California or any political subdivision thereof or local agency is pledged to the payment of the principal of, premium, if any, or any interest on this bond.”

Section 4. The bonds shall be issued subject to the conditions that (i) the Authority and the Water Authority shall have first agreed to mutually acceptable terms for the bonds and of the sale and delivery thereof, and mutually acceptable terms and conditions of the availability of the

bond proceeds to finance a portion of the Project; (ii) all requisite governmental approvals shall have first been obtained; and (iii) a Final Resolution shall have been received from the Authority.

Section 5. The Executive Director of the Authority is hereby authorized to indicate the willingness of the Authority to proceed with and effect such financing in order to assist the Water Authority by defraying the cost of the Project, subject to due compliance with all requirements of the law and the obtaining of all necessary consents and approvals and to meeting all other requirements of the Authority.

Section 6. It is intended that this Resolution shall constitute “some other similar official action” towards the issuance of bonds within the meaning of Section 1.103-8(a)(5) of the Treasury Regulations and “official intent” within the meaning of Section 1.150-2 of the Treasury Regulations, each as applicable under Section 103 of the Internal Revenue Code of 1986, as amended. It is also intended that this statement of “official action” or “official intent” by the Authority shall continue in full force and effect even if this Resolution ceases to be effective for other purposes.

Section 7. This Resolution shall constitute an amendment of the Initial Company Resolution for the purposes for adding the Water Authority as an additional Applicant (as described in the Initial Company Resolution) for purposes for requesting assistance from the Authority to finance a portion of the Project.

Section 8. This Resolution shall take effect immediately upon its passage and remain in full force and effect thereafter; provided that, subject to Section 6 above, this Resolution shall cease to be effective on September 18, 2015 unless the Authority specifically adopts a further resolution extending the effective date of this Initial Resolution. In addition, Section 7 of the Company Initial Resolution is hereby modified to provide that the Company Initial Resolution shall cease to be effective on September 18, 2015 unless the Authority specifically adopts a further resolution extending the effective date of the Company Initial Resolution. The Authority will consider such extension upon receiving a specific request for such action from the Water Authority, accompanied by any additional information requested by the Authority to supplement the Water Authority’s application, and an explanation of the status of the Project

EXHIBIT A

NUMBER: 849(SB)

LOCATION: 4590 Carlsbad Boulevard
Carlsbad, California 92008

TYPE: Water Furnishing

AMOUNT: Up to \$780,000,000*

*The \$780,000,000 is expected to include two series of bonds:
(1) up to approximately \$550,000,000 in private activity bonds
issued on behalf of the Company to finance the desalination plant
and (2) up to approximately \$230,000,000 in governmental
purpose bonds issued on behalf of the Water Authority to finance
the pipeline.